

**MINUTES  
PLANNING BOARD  
TUESDAY, April 26, 2016  
7:00 PM  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chair Steve Lee; Members Barbara Dement\*, Kress Query, David Barley, David Wieser; Alternate member Kerry Lamson; Town Attorneys Charles Buckley and Craig Buie; Planning Director Kathi Ingrish, Senior Planner Jay Camp, Administrative Assistant/Deputy Town Clerk Shana Robertson.

**ABSENT:** Members Michael Ham, David Pratt, Alternate member Gregory Lee; Youth Voice Carley Newton.

\*Arrived at 7:52 pm.

**CALL TO ORDER**

Chairman Steve Lee called the meeting to order at 7:02 pm.

Chairman Lee noted that three regular members of the Planning Board were absent and that one alternate needed to be added as a voting member for this evening. Kress Query motioned to add Kerry Lamson as a voting member, seconded by David Barley. The motion passed unanimously.

**APPROVAL OF THE MINUTES**

Kress Query motioned to approve the minutes of the March 22, 2016 meeting as submitted. Seconded by Kerry Lamson and the motion was unanimously approved.

**ZONING APPLICATION 2016-643- Primrose School, 720 Park Center Drive, from I-1 to O (CD)**

Senior Planner Jay Camp stated that there have not been many changes since the public hearing. He informed the Planning Board members of Michael Ham's letter regarding his input on application 2016-643. Mr. Camp recapped this was a rezoning from I-1 to Office (CD) for a 12,800 sq. ft. child care center that would accommodate up to 185 children. There is a revised building elevation facade and streetscape that was received this afternoon. This revision was done with consideration to Town Board and Planning Board previous feedback.

Mr. Lamson asked if the proposed layout and the Matthews Streetscape Plan would consider this area within the Downtown or outskirts. He also wanted to know what classification N. Ames St would be. Mr. Camp said that he would need to look at the plan to answer but street improvements have been made up to Park Center but not yet to that section of N. Ames. Mr. Lamson stated that with the narrow access into N. Ames that this could be related or tied to one another to alleviate some of the traffic concerns heard during the public hearing. Mr. Camp answered that this project is a prime example of how flexible the Streetscape Plan is as there is a blending of residential and commercial. Mr. Lamson requested clarification about the fence and design elements being in place for security and how it would all relate to what might need to be accomplished to both fit this property and implement the streetscape plan for N. Ames. Mr. Camp said that he would email some diagrams and streetscape plans after the meeting.

John Carmichael, 101 N Tryon St, Suite 1900, Charlotte, NC 28246, addressed the Board. He reviewed the first versions of the daycare center per Mr. Lamson's request. He noted that the comments received at the Public Hearing regarding this version were that the building was boring or institutional looking and needed to be broken up. Mr. Carmichael stated that Mr. Tillman with Primrose talked with his architect who added quoins (detailing of brick), awnings, and elevation changes in consideration of those concerns. There are other changes that the Commissioners suggested and the elevations will be altered more based on input.

David Barley asked what the height of the parapets would be. Mr. Carmichael answered 22 feet. Mr. Carmichael went on to say that other comments regarding the fence were also addressed by adding brick columns to both sides. The space would not allow for benches but seat walls have been added to improve aesthetics. Mr. Carmichael said that other changes have been made along with a door being added onto the building closer to the parking entrance at N. Ames.



He went on to explain that Primrose did a study to find average drop off times for children. The study clocked the time that it took for children to be dropped off to the centers. Recording times include parking and getting out of the car, walking/carrying the children into the building and signing them into a computer system, then leaving. The traffic study watched four centers in the New Jersey area and the turnaround time was shown to average five and a half to six minutes. Mr. Carmichael stated that he did not know direct placement of the study center doors but with the public input and movement to meet that concern would increase efficiency. Mr. Carmichael continued stating that currently there are 45 onsite parking spaces and eleven on street. Five of the onsite spaces will be owed by OrthoCarolina. This would give the Primrose center a net of 51 parking spaces available for use. David Weiser asked that with the fence in place would that leave the parents walking their children along the road to the access point if parking along the street. Mr. Carmichael answered that there would be a public sidewalk on the street side of the fence. He then showed the Primrose site plan to help illustrate this answer.

Mr. Lamson asked its use if under different property ownership. He also asked for a description of interior layout and the number of classrooms to understand flexibility of building. Ted Tillman with the Primrose School Franchising Center, 3660 Cedar Crest Rd, Acworth, GA 300101, stated that the building is unique with eleven classrooms, a warming kitchen, storage room for class supplies and laundry room. The structure will have wood studded frames and a load bearing wall through the center that could easily be converted to a pediatrician's office or general office. Mr. Lamson clarified that this would be fit for other office type spaces but small retail, individual slotted business and other types like in the North End would not be conducive for this structure at this point. Mr. Camp answered that this would not be allowed in the office district. He was concerned that even if the traffic concerns were met would this still be the right structure for this area or would something like a two story building or a space that could house more businesses be a better fit for this area. Mr. Carmichael answered by saying that they have been asked to include in the conditions that this site be used for medical/dental type offices, daycare facilities, laboratory offices and general offices.

Kress Query asked for consideration on having diagonal parking with the entrance coming from the OrthoCarolina side of the business and the exit onto N. Ames. Additionally on the exit onto N. Ames, have a left turn out only. This would be to keep traffic out of the narrow areas and routed back to the larger streets. He also asked for the applicant to consider widening or giving funds to have the rest of the small area of N. Ames Street widened while still keeping it a one way in and one way out.

Bryan Smith, 1318 Central Ave, Suite E6, Charlotte, NC 28205, responded to this by saying angling parking spaces will reduce the amount of parking which was a concern all along so they do not want to lose any more especially with the five that OrthoCarolina will use. The concern on the one way left is that would put everyone back on to N. Ames or Park Center and that would concentrate the traffic. He also added that enforcing the left turn would be difficult. Mr. Carmichael addressed the inquiry about funds given to the town to widen the small section of N. Ames. He did speak to Primrose about this and that is something they would be willing to consider. He would need to gather figures in respect to cost and maybe speak to other property owners. Kress Query reiterated his concerns about one way in, one way out, widen the street and diagonal parking. He thinks the building and new elevations have been greatly improved from the first drafts. He has no problems with the building or the use, just concerns of traffic and congested small roads.

Chairman Steve Lee asked if there may be any consideration of one access point until road improvements are made. Mr. Carmichael said it could be a consideration but the issue would be OrthoCarolina's driveway and how they would feel.

Mr. Weiser asked Mr. Camp about the large 100 year old oak tree that sits on the property and asked if an arborist will or has already looked at the tree. Mr. Camp stated that Matthews Arborist evaluated the tree last fall (2015) and found it to be in decline. He did recommend removal. He noted that it is in Primrose plans to remove the tree.

Davis Barley asked about the right of way. Planning Director Kathi Ingrish stated that on zoning maps it shows as center line and does not show up in aeriels. Town Attorney Charlie Buckley stated that was a ditch bank right of way. Mr. Camp showed the aerial image of the area to the Board.



Mr. Query made a motion to recommend denial of zoning application 2016-643 Primrose School from I-1 to O (CD). He is in favor of the use and elevations presented, the recommendation is due to the traffic concerns. Those concerns include the one way entrance, one way with left only exits, widening of N. Ames and diagonal parking. Given the current status it would be inconsistent with the Matthews Land Use Plan. David Barley seconded the motion which passed unanimously.

#### **ADMINISTRATIVE AMENDMENT CONTINUED- Windsor Square Roundabout Revisions**

Planning Director Kathi Ingrish informed the Board that this case was heard last month and granted a continuation for the April meeting. She noted that there are two representatives in attendance to present design alternatives.

Anthony Fox with Parker Poe Adams & Bernstein, LLP 401 South Tryon Street, Suite 3000, Charlotte NC 28202 addressed the Board. He reviewed the concerns that Mr. Query had last month in regards to the exit from the property and the left turn movement being across a current right of way area. Other concerns that are being addressed are other movements in the parking lot and amendments to the site plan. Mr. Fox presented to the Board the original plans as well as revised plans that show the design to steer traffic to the right of the exit and limit the left turn movements. Mr. Fox also went over the ingress, egress features of the site and stated that the proposed improvements were presented to Exxon, which they declined to support.

Two options were then presented by Mr. Fox. First, he showed the property owners preferred option, presented in March, which would put the cusp cut into the easement. He then showed a new option that would add a median that moves the traffic to the right.

Craig Mueller, representing SC Windsor Square, LLC, 1814 Windsor Square Drive, Matthews, NC 28105, addressed the Board. He demonstrated the movements around the roundabout with a distance of 110 feet from one point to another or an alternate that would be 43 feet from a different point. The new proposal would be a distance of 71 feet. This would be an additional eight feet from last month's 63 foot proposal and would give drivers that extra room when taking a left toward the roundabout.

Chairman Lee asked if it is the new proposal that the Exxon owners did not agree to. Mr. Mueller responded that it has not been agreed to yet. He said that they have looked at other options but that would move them outside the easement and that defeats the purpose for the change request.

Mr. Lamson asked if there was any consideration for extending the existing median. Mr. Mueller explained that by doing so it would cut off left hand movement and thus restrict the requirement that SC Windsor must meet.

Mr. Query pointed out the three access points into Exxon and clarified that the third point of access gets very little use. Mr. Mueller confirmed and stated that there is an agreement between SC Windsor and Exxon. SC Windsor is trying to comply with the agreement to give as much access as possible to the Exxon site. Mr. Query stated that he did go by the site and watched as cars ran up onto curbing, coming from the roundabout.

Mr. Lamson asked Mr. Mueller if they are currently in litigation with Exxon and if granting the current request would solve their problem. Mr. Fox answered that yes they are currently in litigation and thus the reason for the Administrative Amendment. Mr. Lamson verified that even if Exxon is not in agreement with the proposed plan this would still comply with the contractual agreement between the two.

Chairman Lee noted that for the record, Barbara Dement has arrived at 7:52 pm and will be able to vote. Chairman Lee clarified the legal situation is not a factor that will be considered in the Administrative Amendment.

Mr. Lamson asked about consideration for a no left turn sign to be placed at that particular access point to discourage use. Mr. Fox said that a sign is not a preferred option.

Chairman Lee stated that it is his belief that this access point would not see that much traffic and the revised plan would make it a hard turn. Mr. Query stated that he does not think he could support the amendment as it is already a tight circle. He understands that this is to satisfy a third party but feels it is not the best move.



Mr. Lamson stated that there are too many factors, including high planting in places and safety concerns on both proposed plans. Mr. Query was not sure that the proposed plan would get used often but with the safety of the turn he would not like to think of anyone getting in an accident. Ms. Ingrish mentioned that the Matthews Police Chief has made a comment that if landscape could be kept low, under two feet, it would help with visibility. Mr. Fox said that SC Windsor could control that landscape.

Mr. Query made a motion to deny the proposed Administrative Amendment as it was not consistent with the Matthews Land Use Plan and creates a hazardous condition. David Barley seconded the motion which passed unanimously.

**ADMINISTRATIVE AMENDMENT- McEwen-Moore Farmhouse at Royal Park, Moore Rd, Extend Deadline to Obtain CO by 3 Months (to Aug 30, 2016)**

Ms. Ingrish provided background on the Administrative Amendment. She stated that a zoning condition for Liberty Healthcare was to have an occupant in the property to stay in stable condition. The way to get a Certificate of Occupancy is to have a tenant in that building. This house would need to go through the Historic Landmarks Commission, being it is a historic structure, for making any internal or external changes. They did receive from the Historic Landmarks Commission a Certificate of Appropriateness in January of 2016 and updated in April 2016 thus giving them another six months. The hope of the owner is that they may be able to get their building permits and have this work completed in the requested three month time frame putting completion to the end of August 2016.

Chairman Lee asked Ms. Ingrish what the consequences would be considering that this would be the second extension. Ms. Ingrish answered that if they do not get work completed within the allotted timeframe then technically there would be a zoning violation. This would be up to the Town to issue and typically a 30 day notice is first sent. If they are still not in compliance fines are then issued. Fines could go up to \$500 per day. Ms. Ingrish added that this information has been sent to the Board of Commissioners so that they would be aware of the Planning Board's involvement. The Commissioners feedback was that they wish this to be the last time an extension would be requested and this matter to be completed.

Mr. Query asked that if the extension was granted and work did not meet completion of late August, then fines would be the next step. Ms. Ingrish confirmed that would indeed be the next step after the notice from the Town. Chairman Lee asked if the second extension was not granted then fines would start in a month. Ms. Ingrish again confirmed that zoning violations would be in effect starting in June.

Mr. Lamson asked for an update from the applicant on what still needs to be completed.

Hunter Diefes and Timothy Walsh of Liberty Healthcare, 2334 S. 41<sup>st</sup> Street, Wilmington, NC 28403 addressed the Board. Mr. Diefes answered by confirming that Ms. Ingrish was correct in stating that they have received an updated Certificate of Appropriateness in April that was originally dated in January 2016. He noted that a tenant has been procured. That tenant will be part of the owners' affiliated homecare office in Mecklenburg County. In order to upfit the house to a functional office space, modifications to plans have been approved by the Historic Landmarks Commission and Mecklenburg County. A contractor has been acquired and as soon as permits are filed work will begin. The level of work was not anticipated when the home was acquired in order for it to meet commercial code. He noted it will take approximately two months to complete.

Chairman Lee asked what level of construction work is being done. Mr. Diefes responded by saying that they have to make the structure ADA compliant which includes making the restroom accessible and adding a handicap ramp at the entrance. All the existing electrical wiring will need to be removed and replaced as well as metal studs added to walls for commercial code. The HVAC and plumbing also require upgrades.

Mr. Query commented that the amount of work seems to be extensive for the amount of time. Mr. Diefes agreed that it seems a bit aggressive but the contractor believes it will fit the timeline. Mr. Diefes reiterated that permits are ready to be pulled and work should start very soon. He stated that they are ready to get this completed.



Ms. Dement asked for what steps have been taken since the granting of the Administrative Amendment a year ago. Mr. Diefes stated that another Liberty employee was handing this project up until he and Mr. Welch took it over in November of 2015. He stated that the major delay was acquiring a tenant. Efforts were made to acquire a third party tenant with no success. Mr. Diefes stated that the only option they had left was to relocate one of Liberty's Homecare offices, an entity that the owner could control. Plans at that point had to be reworked to accommodate the homecare office. Several revisions at the county level were required before approval. Site plan was signed off in February and contractor committed in March 2016.

Mr. Query asked if approval was through the historical agency or through the County. Mr. Diefes answered that both have approved all revisions and improvements.

Mr. Lamson asked what is meant by being able to control the tenant. Mr. Diefes stated that Liberty Healthcare is the parent company and have both homecare and hospice agencies. The homecare agency that will be a tenant is one of 34 in the country. Mr. Lamson went on to ask if a signed lease agreement was in place. Mr. Diefes said nothing was in place yet as the current lease does not run out until June and they will have to go monthly until completion of construction on the site.

Chairman Lee motioned to approve the Administrative Amendment allowing for an additional three months (to August 31, 2016) to obtain a Certificate of Occupancy on the subject property in that it is reasonable and consistent with the existing site conditions; due to the historic nature of the home and difficulty in filling the occupancy requirements. Mr. Query seconded the motion and it passed unanimously.

#### **INFORMATION AND DISCUSSION- Park Concept at 10252 Monroe Road**

Chairman Lee provided a brief history stating that the location of the site was recently denied a zoning change for an apartment community, has the historic cemetery, and backs up to Sardis Forest.

Ms. Ingrish stated that this came as a suggestion from neighbors who want to get involved in their community. This is a property that they feel strongly about and wish to have input about. No specific request has been made at this time for zoning nor any direction from the Board of Commissioners. This is for information to review and discuss as little or as much as this Board would like.

Chairman Lee clarified that this property borders Charlotte city limits. Ms. Ingrish verified by answering yes. Chairman Lee asked if this would be a park then the entrance would have to go through Sardis Forest. Ms. Ingrish said that with the park being for the neighbors the park access placement should be on the back side of the property but there was logically no way to do that. Mr. Barley asked if the neighborhood is mostly single family homes. Ms. Ingrish confirmed this. She stated that a good portion of the property along the rear was a historic cemetery. The cemetery could be a feature but you would not want to make that a public access point. Mr. Camp said that there was a stub street into the adjacent apartment community and in theory could be a trail easement. This easement is part of the Monroe Small Area Plan so an applicant or the Town would have to secure the easement with Legacy Apartments.

Chairman Lee said that for deliberation on this his question would be does this fit into our Land Use Plan. He does not want to put in a park on the border of Charlotte. Ms. Dement stated that this use of land does not fit into the Monroe Road Small Area Plan. She noted that the area plan is a great plan and to stick with the vision. Mr. Lamson asked if there is historic significance to the cemetery. Ms. Ingrish verified that it is designated an historic site. Mr. Query add that due to this, anyone who acquires the property will have to preserve the cemetery. Ms. Dement pointed out that this property is considered a prime location and thus carries a prime purchase price. She said that as much as she is an advocate for parks, this location is not in the vision of Matthews. Mr. Weiser agreed that we need to stick to the Monroe Road Small Area Plan.

## ADJOURNMENT

Chairman Lee motioned to adjourn. Seconded by Ms. Barbara Dement and the motion passed unanimously. The meeting adjourned at 8:23 pm.

Respectfully submitted,



Shana Robertson  
Administrative Assistant/ Deputy Town Clerk